IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Kesri Chand & Anr. Vs. State of Raj. & Anr.

S.B.CR.MISC. PETITION NO.1041/2004

DATE OF ORDER :: July 21, 2006

PRESENT

HON'BLE MR.H.R.PANWAR,J.

Mr. Sanjeev Sharma, for the petitioners.
Mr. Ashok Upadhyaya, P.P. for State.
Mr.Sanjay Kapoor, for non-petitioner No.2.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioners seek quashing of FIR No.610/2004, Police Station, Kotwali, Pali for the offence under section 420 I.P.C.

I have heard learned counsel for the parties. Perused the first information report.

The allegation against the petitioners is that petitioner No.1 took a loan of Rs.25,000/- from non-petitioner No.2 Central Co-operative Bank Ltd., Pali. According to learned counsel for the parties, the entire loan amount including the interest has already been repaid by the petitioners on 5.10.2004 and a certificate to that effect has been issued by the Bank dt.

4.10.2004. The loan amount was paid by cheques No.0010955 to 011000 dt. 4.10.2004 and 'no due certificate' has also been issued by the Bank in favour of the petitioners.

Learned counsel for the complainant also submits that after having received the loan amount nothing survives in the matter and in view of the supervening change in circumstance that the loan amount has already been repaid, the Bank has no grievance and it is not interested in pursuing the said FIR any further. Even otherwise on perusal of the FIR, in my view the essential ingredients for the offence of cheating under section 420 I.P.C. are not made out. The petitioners applied loan and bank sanctioned the loan, which has been repaid by the petitioners and, therefore, there is no dishonest intention on the part of the petitioner. In the circumstances, therefore, the FIR deserves to be quashed.

Consequently, the criminal misc. petition is allowed and the FIR No.610/2004, Police Station Kotwali, Pali for the offence under section 420 I.P.C. against the petitioners is hereby quashed. Stay petition stands disposed of.

[H.R.PANWAR],J.

m.asif/-